

III. Remarks

Reconsideration of this application in light of the above amendments and the following remarks is requested.

Claims 1-36 were originally filed in the present application. Of these, claims 34-36 have been cancelled without prejudice or disclaimer in response to a restriction requirement. Claims 7-15 and 24-27 are also withdrawn from consideration in response to an election requirement, but remain pending in the application.

Consequently, claims 1-6, 16-23 and 28-33 are currently under consideration. Of these, claims 1, 28 and 29 are presently amended. No claims are presently cancelled or added. Consequently, claims 1-6, 16-23 and 28-33 remain pending and under consideration.

The Examiner has also indicated that a fluorine-containing chemistry containing a chlorine-containing gas is non-distinctive relative to a fluorine-containing chemistry containing a bromine-containing gas. Applicants respectfully traverse in view of the fact that a person of ordinary skill in the pertinent art would readily recognize that some fluorine-containing chemistries can contain a chlorine-containing gas while not also containing a bromine-containing gas, and that other fluorine-containing chemistries can contain a bromine-containing gas while not also containing a chlorine-containing gas. Nonetheless, Applicants appreciate the Examiner's gracious effort to expedite prosecution of the application, and agree with the Examiner's implication that consideration of both fluorine+chlorine-containing chemistries and fluorine+bromine-containing chemistries is not unduly burdensome.

IV. Objections: Specification

The Examiner has also objected to the specification (paragraph [0024]), questioning how the spacer 210 could survive an elevated temperature during formation of the silicide material of the contact region 230. However, in doing so, Applicants believe the Examiner may have assumed that the contact region 230 can only comprise a silicide material within the scope of the present disclosure, and further that such silicide material can only be a silicide material which requires a formation temperature of sufficient degree as to damage the previously formed spacer 210. Nevertheless, such assumptions are not supported within the scope of the present disclosure. For example, as provided in paragraph [0023], the composition of the contact region 230 is not limited to silicide material ("...contact regions 230 may comprise silicide, silicide and/or other materials ..."). As also provided in paragraph [0023], the formation of the contact region 230 is not limited to the high-temperature processes implicated by the Examiner ("...contact regions 230 ... may be formed by conventional and/or future-developed processes ..."). Thus, it is believed that the informalities alleged to exist in the specification are actually

non-existent limitations inadvertently assumed by the Examiner, likely in view of the Examiner's clearly advanced knowledge and skill in the art. Accordingly, Applicants respectfully request that the objection to the specification be withdrawn.

V. Objections: Claims

Claims 1, 28 and 29 are currently amended. Consequently, Applicants respectfully request the Examiner withdraw the objections thereof.

The Examiner has also objected to claim 3 for an alleged implication that claim 3 is limited to an embodiment in which a gate structure is formed on a substrate comprising diamond. However, claim 3 includes no such implication. Neither claim 3 nor its independent claim 1 explicitly or implicitly provides that the claimed patterned feature is limited to a gate structure, nor that any gate structure is necessarily formed on the substrate (compared to being formed over the substrate). Moreover, Applicants respectfully direct the Examiner's attention to paragraph [0011] of the present application, which explicitly provides that the patterned feature 110 is not limited to the gate structure referenced by the Examiner. Consequently, Applicants respectfully request the Examiner withdraw the objections thereof.

VI. Rejections under 35 U.S.C. §102

Claims 1, 2, 5, 6, 16, 17, 20-23, 29 and 31 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. App. No. 2004/0157457 to Xu, et al. ("Xu"). However, submitted herewith is a signed declaration from inventor Han-Jan Tao establishing invention and reduction to practice of the presently claimed subject matter prior to the filing date of Xu.

Consequently, Xu is disqualified as a §102(e) reference. Accordingly, Applicants respectfully request the Examiner withdraw the §102(e) rejection of claims 1, 2, 5, 6, 16, 17, 20-23, 29 and 31.

VII. Rejections under 35 U.S.C. §103

Claims 3, 4, 18, 19, 28 and 30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Xu. Claims 32 and 33 have also been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,444,531 to Rupp, et al. ("Rupp") in view of Xu. However, for the reasons described above, Xu is disqualified as a §103(a) reference. Accordingly, Applicants respectfully request the Examiner withdraw the §103(a) rejection of claims 3, 4, 18, 19, 28, 30, 32 and 33.

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VIII. Conclusion

It is believed that all matters set forth in the Office Action have been addressed. Favorable consideration and an early indication of the allowability of the claims are respectfully requested. Should the Examiner deem that an interview with Applicants' undersigned attorney would expedite consideration, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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